IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P.No.19667 OF 2002, W.P.Nos.20154 & 21742 OF 2005

AND

W.P.M.P.No.27494 OF 2005

IN

W.P.No.20154 OF 2005

Date: 27.10.2005

BETWEEN:

1. M. Srinivasulu and others

…. PETITIONERS

And

1. The District Collector, Ranga Reddy District, Lakadi-ka-pool, Hyderabad, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

W.P.No.19667 OF 2002, W.P.Nos.20154 & 21742 OF 2005

AND

W.P.M.P.No.27494 OF 2005

IN

W.P.No.20154 OF 2005

COMMON ORDER:

These three matters are filed in respect of the land in S.Nos.111 to 118 admeasuring Acs.18.02 situated at Balanagar village of Ranga Reddy District. W.P.No.19667 of 2002 is filed by seven persons claiming to be the legal heirs of one Mallaiah, the original pattadar.

They also filed W.P.No.21742 of 2005. In their first writ petition, they sought a direction to the District Collector, Ranga Reddy District and Mandal Revenue Officer, Balanagar (MRO) to prevent unauthorized construction by land grabbers and to maintain status quo as directed by this Court in its order dated 5.10.2001 in W.P.No.14421 of 1998 and batch. In W.P.No.21742 of 2005, they seek a direction to the first respondent, namely, the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, not to entertain any applications under G.O.Ms.No.455 dated 29.7.2002 and G.O.Ms.No.456 dated 29.7.2002 from respondents 2 to 6 herein and other encroachers.

Respondents 2 to 6 in W.P.No.21742 of 2005 filed W.P.No.20154 of 2005 seeking a declaration that the action of the MRO in demolishing their houses in S.Nos.111, 112 to 117/1 and 117/2 in Balanagar Mandal is unconstitutional and illegal. They allege that they purchased the property from one Sri E.S. Sethji, and raised constructions thereon and that the MRO is trying to demolish their houses. They also allege in the said writ petition that they made necessary applications to Special Officer for regularization of their occupations and right in accordance with G.O.Ms.No.455, which are pending. On 16.9.2005, this Court disposed of the said writ petition observing that it would not be proper for revenue officials to take any coercive action, when the applications made by the occupants are pending with the Special Officer. This Court also observed that without giving any notice to the occupants, the MRO cannot take any coercive action. Subsequently, the third respondent in W.P.No.20154 of 2005 filed Review W.P.M.P.No.27494 of 2005 contending that the order was passed by this Court in W.P.No.20154 of 2005 without hearing him. Therefore, this Court admitted the Review Petition on 4.10.2005 and issued notice to the learned counsel for the writ petitioners. Sri J. Somasundaram, learned counsel for the petitioners in W.P.No.20154 of 2005, having regard to the fact that the third respondent was not heard at the time of disposal of the writ petition, does not oppose the review petition seriously. Therefore, the order dated 16.9.2005 in the said writ petition is recalled and the matter is heard along with other two writ petitions.

The land in S.Nos.111 to 118 originally belong to Mallaiah, the predecessor in title of the writ petitioners in W.P.No.21742 of 2005. It is taken as the illustrative case for the purpose of disposal of these writ petitions by this common order. It appears, initially, the land was covered by the certificate issued under Section 2 (O) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') in C.C.No.4443 of 1976, and the said certificate was given by the Special Officer. Subsequently, however, the Special Officer issued final statement under Section 8(4) of the Act determining huge extent of land, to be the surplus vacant land. Aggrieved by the same, the petitioners moved appellate authority who by order dated 14.11.1995 set aside the final statement of the Special Officer, and remitted the matter for fresh enquiry and the same is still pending at that stage. There is no denial that the proceedings under the Act have not reached the stage of finality and the statement under Section 10 (1) and notification under Section 10(3) of the Act are not issued so far. In the meanwhile, it appears, Mr. Sethji claiming to be the G.P.A. holder of third parties, sold land to respondents 2 to 6 and many more others. Having come to know that all of them approached the Government by filing necessary applications for regularization under G.O.Ms.No.455, the petitioners, who are successors in title of Mallaiah, filed writ petition seeking a direction to the first respondent not to entertain such applications.

G.O.Ms.No.455 enables the Government to consider the request for regularization

of urban lands and allotment where the excess land is already vested with the Government under Section 10(3) of the Act. It becomes clear therefore that unless and until the proceedings under the Act like issue of final statement under Section 8(4) read with Section 9(1) of the Act are completed, the land does not absolutely vest in the Government under Section 10(3) of the Act free from encumbrances. Therefore, unless and until the Special Officer completes the enquiry in C.C.No.F1/48 to 55 of 83, the question of consideration for regularization under G.O.Ms.No.455 does not arise. Further, any enquiry under G.O.Ms.No.455 will only be with reference to the land that is vested with the Government, and in the event of any doubt, it is always necessary and permissible to the Special Officer at the stage of enquiry to issue notice to the original declarants or their legal heirs, who filed declarations under Section 6 of the Act.

The respondents 2 to 6 in W.P.No.21742 of 2005 and many more others, who either purchased the property under registered sale deeds from Mr. Sethji or other encroachers, are allegedly in possession of the land and some of them allegedly raised constructions in the land. In respect of these persons, who are said to be in possession of the property, either the declarants or the Government officials cannot be permitted to resort to high-handed action in demolishing the structures, if any, or in evicting the occupants forcibly. The Government officials or the declarants/owners of the land have to necessarily take action in accordance with law. While disposing of W.P.No.20154 of 2005 this court made observations to that effect, and ordered status quo observing that unless and until the occupants are given notice, coercive action may not be taken. Such an observation would ensure fairness to those people, who are in occupation of the land. Such persons, if they want to protect their possession, may have to approach the civil Court and obtain appropriate orders in the matter. In such an event, the order of status quo should not come in the way of civil Court or any other forum in considering the claims of the occupants in accordance with merits.

In the facts and circumstances, these three writ petitions are accordingly disposed of directing the Government of Andhra Pradesh and the Special Officer, Urban Land Ceiling, Hyderabad not to consider any applications filed by any person in relation to the land in S.Nos.111 to 118 of Balanagar village and Mandal, Ranga Reddy District, till the finalisation of the land ceiling proceedings in the declarations filed by the petitioners in W.P.No.21742 of 2005. Further, as and when such applications are filed by any persons for regularization in relation to the land in the said survey numbers, necessary notice may be issued to the declarants/owners of the land, before passing any orders.

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(**V.V.S. RAO, J.)**

27th October, 2005

Js.